

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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CASE NO. 03-CR-10361-RWZ-03

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UNITED STATES

V.

SCOTT FINK,  
Defendant

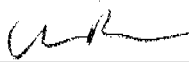
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**DEFENDANT'S MOTION TO DISMISS SUPERSEDING INDICTMENT OR,  
ALTERNATIVELY, STRIKE SURPLUSAGE FROM INDICTMENT**

Pursuant to Fed. R. Crim. P. 7(d), the defendant Scott Fink moves that the Court dismiss the superseding indictment, or, in the alternative, strike the section of the superseding indictment entitled "Notice of Additional Factors," set forth on pages 6 and 7 of the superseding indictment, and in particular paragraphs 1, 2, 5, and 6 of the Notice of Additional Factors. In support of this motion, the defendant relies upon the courts' decisions in United States v. Mutchler, 2004 WL 2004080 (S.D. Iowa Sept. 9, 2004); United States v. Brown, 2004 WL 1879949 (N.D. Ill. Aug. 18, 2004); and United States v. Grant, 329 F. Supp. 2d 1305 (M.D. Fla. Aug. 12, 2004); contra United States v. Baert, 2004 WL 2009275 (D. Me. Sept. 8, 2004)(Hornby, J.).

Respectfully submitted

The defendant Scott Fink  
By his counsel

  
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September 23, 2004

**CERTIFICATE OF SERVICE**

I certify that I have served the foregoing upon counsel of record by delivering a copy to  
AUSA William Weinreb on September 23, 2004.

  
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Charles W. Rankin